U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30339956

Date: MAR. 19, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, an entrepreneur and a materials engineer specializing in interior design, seeks second preference immigrant classification (EB-2) as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for the underlying visa classification as a member of the professions holding an advanced degree, but that she did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

The Petitioner intends to operate a business, [redacted] in Florida and work as a lead materials engineer to provide interior design services focused on "creating healthier and more affordable interior design using biomaterials and engineering techniques." The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under the first prong of the *Dhanasar*'s analytical framework.[1] *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). The Director stated: "[o]verall, the [P]etitioner has not offered sufficient evidence to demonstrate that her business stands to impact the regional or national population at a level consistent with having national importance. Nor has she shown that her particular work would have broader implications for the field of interior design." In making this finding, the Director summarized the pertinent evidence and analyzed why the Petitioner's endeavor did not meet the national importance element in *Dhanasar*.

[1] The Director further concluded that the Petitioner is well-positioned to advance her proposed endeavor under the second prong, but the evidence does not support that her endeavor, on the balance, would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification, under the third prong.

Upon review of the entire record, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS,* 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS,* 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

On appeal, the Petitioner generally summarizes and reiterates the evidence previously submitted on record, such as benefits of her profession and importance of the biodesign industry, her qualifications, and the claimed economic impacts of her proposed business. The Petitioner contends that not only the Director "has erroneously applied a higher standard of proof," but also "failed to apply correctly the legal framework established in Matter of Dhanasar" and "failed to consider the totality of the evidence provided." However, the Petitioner does not provide any new evidence or compelling arguments that overcome the Director's determination.

With respect to the standard of proof in this matter, a petitioner must establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met her burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, upon de novo review, the Director properly weighed all the evidence to evaluate whether the Petitioner had demonstrated, by a preponderance of the evidence, that she meets the first prong of the *Dhanasar* framework but determined that the evidence overall lacked probative value.

In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* at 889. The Petitioner declared that she would provide "new and innovative solutions, making houses and offices healthier" and "innovative materials that are yet to be used in the U.S., applying them in the best way possible with my biomaterials and biodesign techniques." However, after evaluating the Petitioner's personal statements, expert opinion letters, and various articles and reports discussing the importance of biodesign, biomaterials, and sustainability, the Director concluded that the evidence does not corroborate the Petitioner's claims. The Director stated that:

> USCIS finds the record has not established the [P]etitioner's proposed endeavor stands to sufficiently extend beyond her organization's impact in the field of interior design more broadly at a level commensurate with national importance. Nor has the [P]etitioner sufficiently demonstrated the particular work she proposes to undertake offers original innovations that contribute to the advancements in her field of endeavor, or otherwise has broader implications in her field.

We agree with the Director's assessment of the evidence. The Petitioner's personal statements do not meaningfully analyze how her specific endeavor meets the national importance as defined in *Dhanasar* and the record does not contain independent and objective evidence to substantiate her claims. The expert opinions explain the importance of the biodesign industry and speculate on the industry's effect

on the American economy in general but do not discuss the Petitioner's specific endeavor and its impact with persuasive details. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

In *Dhanasar*, we also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Accordingly, the Director evaluated the Petitioner's business plan and determined that the projected hiring of eight employees in five years does not demonstrate "substantial positive economic effects for the nation" as contemplated in *Dhanasar*. *Id.* Furthermore, the Petitioner did not provide corroborating information or evidence regarding any projected U.S. economic impact or job creation directly attributable to her activities, aside from the claims made in her business plan. The Petitioner must submit relevant, probative, and credible evidence to establish the national importance of the proposed endeavor. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also asserts that the Director only considered her role as an entrepreneur "instead of also evaluating her as a Materials Engineer with a specialty in Interior Design." However, the Petitioner's assertion is unpersuasive as the Director identified her endeavor as both "a Lead Materials Engineer/Entrepreneur" and analyzed whether her endeavor offers original innovations contributing to the field of her endeavor as a lead materials engineer, in addition to evaluating her business plan.

Lastly, the Petitioner claims that the Director "maintained a pattern of errors observed throughout this case" demonstrating "a lack of attention to detail" and that the decision "erroneously referred multiple times to the [Petitioner's] proposed endeavor as in the field of Human Resources or Real Estate instead of Information Technology."[2] However, the Petitioner has not specified where such instances of errors occurred and how such errors materially impacted the decision.

In sum, we agree with the Director that the Petitioner has not provided evidence to support that her endeavor as a lead materials engineer or as a business owner would have broader implications beyond her clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. Therefore, the petition will remain denied. Because the Petitioner did not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[3]

ORDER: The appeal is dismissed.

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[2] Despite the Petitioner's claims, we did not observe such errors in the Director's decision. We further note that information technology is not the area of the Petitioner's endeavor.

[3] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).